

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ARLEEN EVANS,)	CASE NO. 1:09 CV 1081
)	
Plaintiff,)	
)	
v.)	JUDGE DONALD C. NUGENT
)	
)	Magistrate Judge McHargh
)	
COMMISSIONER OF SOCIAL SECURITY,)	<u>MEMORANDUM OPINION</u>
)	
)	
Defendant.)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Kenneth S. McHargh. (Docket #17.) The Magistrate Judge recommends that the decision of the Commissioner be reversed and the case remanded for further proceedings, on the basis that the decision of the Commissioner that Plaintiff is not disabled was not supported by substantial evidence.

On August 11, 2010, Defendant Commissioner of Social Security filed a Response to Report and Recommended Decision (Docket #18), stating that an objection would not be filed.

Standard of Review for a Magistrate Judge's Report and Recommendation

The applicable district court standard of review for a magistrate judge's report and

recommendation depends upon whether objections were made to the report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case *de novo*. FED. R. CIV. P. 72(b) provides:

The district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

Conclusion

The Court has reviewed the Report and Recommendation *de novo*. The Court hereby ADOPTS the Report and Recommendation of Magistrate Judge McHargh. (Docket #17.) The Commissioner's decision is hereby REVERSED and the case is hereby REMANDED for further proceedings not inconsistent with the Magistrate Judge's Report and Recommendation.

IT IS SO ORDERED.

s/Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: September 15, 2010